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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Access Charge Reform	)	CC Docket No. 96-262
	)	
Price Cap Performance Review For Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Transport Rate Structure and Pricing	)	CC Docket No. 91-213
	)	
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	CC Docket No. 96-263

REPLY COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

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SUMMARY

The current brawl between the interexchange carriers ("IXCs") and the incumbent local exchange carriers ("ILECs") over the level and structure of ILEC access charges resembles a prize fight in which the fighters have thrown so many blows they can no longer defend themselves. The Commission should step in now to deliver a standing ten-count on each of these heavyweights, and declare this bout a non-contest.

The ILECs certainly show signs of having taken too many punches to the head in their proposed "market-based" plans for access charge deregulation. NYNEX and USTA, for example, just fourteen months ago in an earlier phase of this proceeding proposed market-based plans that would have linked the extent of facilities-based competition to highly-targeted deregulation of specific ILEC access services (though not targeted accurately enough in ALTS's opinion). They defended those plans as paralleling the Commission's streamlining of regulation for AT&T based on the emergence of facilities-based regulation in long distance services (see, e.g., USTA's December 11, 1995, comments in this proceeding at 38). But the current market-based plans of USTA and NYNEX throw theory and market facts out the window, and propose to streamline ILEC access charges on a statewide basis upon the mere execution of an interconnection agreement (see USTA's Attachment 8).

The lack of theoretical foundation for the ILECs' current approach is obvious. The mere signing of an agreement certainly means nothing by itself, inasmuch as the CLEC might change its business plans without ever putting competitive facilities in place. Indeed, even the successful implementation of a single interconnection agreement would provide little proof of the existence of effective access competition because, given the current stay of the Commission's rules implementing the "most favored nation" provisions of Section 252(i) of the Telecommunications Act of 1996, there is no assurance that subsequent new entrants could ever avail themselves of its terms.

Finally -- and quite importantly -- NYNEX and USTA's reliance on existing interconnection process and procedures is fatally flawed because NYNEX and USTA are doing their best to destroy that process at the Eighth Circuit. Both NYNEX and USTA are trying to deny new entrants any legal right to unbundled elements such as OSS -- unbundled elements which USTA's principal affiants Schmalensee and Tayor expressly rely upon in endorsing USTA's plan -- or any right to purchase unbundled elements at TELRIC levels (compare NYNEX's claim in its current comments that the states are using TELRIC prices with NYNEX's attack on TELRIC at the Eighth Circuit in general, and in particular with the assertion of counsel for NYNEX and other large LECs at the recent oral argument that states are not applying TELRIC).

The IXCs are also swinging from their heels and hitting

nothing but air. AT&T is reduced to arguing, for example, that the proposed prescriptive approach (which is old fashioned regulation under a new label) is needed to deprive the ILECs of a "war chest" for anti-competitive projects (AT&T comments at 13-17). But even a $2B or $4B annual reduction in access charges is still dwarfed by the ILECs' $90B in annual revenues for their regulated activities alone. However regrettable it might be, access charge reductions will not dent these companies' ability to fund any anti-competitive activity they please.

Nor does MCI come closer to landing a blow when it argues that access charges should be flash cut to TELRIC levels upon RBOC entry into in-region long distance service (MCI comments at 17). RBOCs have no credible ability to eliminate competition in long-distance markets by means of inflated access charges. And even if they did, and were to succeed in destroying the current long distance competitors, the facilities of those bankrupted companies would remain in place, thereby fully constraining RBOC long-distance pricing.[1] The IXCs have failed to show any reason why their prescriptive approach need be adopted.

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[1] Indeed, the Commission adopted this particular economic analysis in defending its decision to eliminate the ILECs' lower Service Band Indices ("SBIs") in the present Third Order and Further NPRM (at ¶ 307).

Once the IXCs and ILECs are counted out, only one approach to ILEC access charge deregulation remains standing: the aggressive removal of all remaining market barriers to effective access competition -- in particular, the prompt completion of the pending Expanded Interconnection proceeding. This is what the fight is really about, and ALTS urges the Commission to climb into the ring and do its part.

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REPLY COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

Pursuant to the Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry released December 24, 1996, in the above dockets ("Access Charge Reform NPRM"), the Association for Local Telecommunications Services ("ALTS") hereby replies to the initial comments on the Commission's proposed reform of its current regulation of interstate access charges.[2]

I. THE NPRM's SO-CALLED "MARKET-BASED APPROACH" SHOULD BE REJECTED IF IT IS NOT SUBSTANTIALLY REVISED.

Many of the parties filing initial comments in this proceeding found immense defects in the Access Charge Reform NPRM's so-called "market-based" approach to access charge reform:

[2] ALTS is the national trade association of more than thirty facilities-based providers of competitive access and local telecommunications services.

"Giving ILECs virtually unlimited pricing flexibility, as the Commission has proposed for Phase One, would empower ILECs to lock up favored access customers and advantage their own long distance operations ... (Sprint at 41); "But, regarding the market-based approach for access reform at this time, CPI feels compelled to point out the emperor is not fully clothed" (CPI at 9; see also AT&T at 43; MCI at 35). As shown below, not even the ILECs are able to muster a passable rationale for the Access Charge Reform NPRM's market-based approach.

A. The So-Called "Market-Based" Approach Marks a Significant and Illogical Step Backwards from Market-Based Plans Previously Offered by the ILECs Themselves.

"Market-based" approaches to access charge deregulation are nothing new. In its December 11, 1995, comments in response to the Second Price Cap FNPRM, NYNEX offered a detailed version of such a plan (NYNEX Comments at 5-7):

> "NYNEX proposes that the Commission create three regulatory frameworks in Phase 1 of the Commission's proposal, during which the LEC's rates would still be under the price cap rules. Broadly speaking, Framework I-A would be the baseline condition, where there is essentially no competitive presence or market entry. Framework I-B would apply where barriers to entry had been removed throughout most of the LEC's operating area, and where a competitor had taken advantage of this situation to begin operating in the region. Framework I-C would apply when the barriers to entry had been completely removed throughout the LECs' operating region, and when competition was present throughout major segments of the LEC's market."
>
> * * *
>
> "In identifying whether competitors had developed a presence in a market, the Commission would examine data showing

> presence in the area served by a LEC wire center. A competitive presence within a wire center could be indicated by such factors as: a competitor had collocated in the wire center; a competitor had provided fiber facilities in office buildings within the area served by the wire center; or a competitor had customers in zip codes within the area served by the wire center." (Emphasis supplied.)

Under NYNEX's proposal, significant deaveraging and ICB authority would not occur even for special access services until Phase I-C (id. at 7). NYNEX defended its proposal as providing incentives that would help insure ILEC compliance with pro-competitive requirements (id. at 4): "By establishing a regulatory model that is adaptive to the transition to actual competition, the Commission would provide incentives for the LECs to promote competition, and it would give potential competitors a predictable environment in which to make their business plans" (emphasis supplied).

Having adopted so statesmanlike a position (though one with which ALTS differed in important respects), one might have expected NYNEX's current comments to again emphasize the importance of providing pro-competitive "incentives" to ILECs while also giving competitors "predictability." What a difference a tentative merger makes! In its current joint comments with Bell Atlantic, NYNEX now asserts that (NYNEX-BA Comments at 44):

> "This [original NYNEX] proposal was based on the assumption that competition in the local telephone market would be primarily facilities-based. Since it takes time for new entrants to deploy facilities, the NYNEX proposal recognized two distinct phases during the start of local competition.

> However, the Commission's decision to allow competitors to purchase unbundled network elements from the incumbent LEC on the basis of unsupported cost will allow new entrants to provide service throughout the area served by the LEC without building their own facilities and without being subject to the uneconomic Part 69 access charge structure.* This means that the conditions for Phases I-B and I-C in the NYNEX plan will be met simultaneously as soon as a LEC has a state approved agreement in place.
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> ---
>
> *Indeed, competitors using unbundled elements will be able to purchase these elements at rates that are below LECs' actual costs. Although the pricing provisions of the Commission's interconnection order have been stayed, 'most of the states are using a forward-looking methodology, similar if not identical to the FCC's choice of TELRIC.' A. Kovacs and K. Burns." (Emphasis supplied.)

This is a world-class flip-flop, and it deserves attention at both the logical and factual levels. First, NYNEX simply abandons without explanation the emphatic statement it made just fourteen months ago about the need to create incentives in order to encourage ILECs to perform their pro-competitive duties. Apparently NYNEX now believes such concerns have become "inoperative."

Second, NYNEX simply turns a blind eye to the fact that Phase I-C under its former plan "would apply when the barriers to entry had been completely removed throughout the LECs' operating region, and when competition was present throughout major segments of the LEC's market" (December 11, 1995, NYNEX Comments at 5; emphasis supplied). Quite obviously, the mere signing of an interconnection agreement tells nothing about the presence of competition "throughout major segments of the LEC's market." Indeed, NYNEX's current comments admit that: "it takes time for

new entrants to deploy facilities," so NYNEX's new stance is tantamount to asserting that competition via unbundled network elements will be both instantaneous and entirely sufficient to provide effective competition in access markets. This radical lurch from reliance on gradual facilities-based entry to immediate entry via unbundled network elements is unsupported by any facts, or by the adoption of the Telecommunications Act of 1996.

Third, NYNEX's assertion that competitive local exchange companies ("CLECs") currently enjoy automatic access to network elements at TELRIC costs is staggeringly disingenuous, as well as factually inconsistent with representations made to the Eighth Circuit just a few weeks ago. It is disingenuous because NYNEX is among the many ILECs seeking to have the TELRIC standard set aside by the Eighth Circuit (see NYNEX Brief filed November 18, 1996, at 6-8: " ... TELRIC methodology is contrary to the plain meaning of the 1996 Act," also adopting the "Large-LEC" brief). It is factually inconsistent because at the January 17th oral argument at the Eighth Circuit counsel for the Large LECs (including NYNEX) was asked whether there are states which do not apply TELRIC, and his answer was "Yes, there are" (Transcript at 19, line 19).

NYNEX's inability to sweep its own former plan under the rug in favor of the Access Charge Reform NPRM's "market-based approach" thus amply demonstrates the latter is fundamentally

flawed. Indeed, not even USTA endorses the NPRM's proposal (USTA at 23; Affiants Sidak and Spulber at 15): "Paradoxically, the Commission's market-based approach imposes more regulation and less reliance on the market."

But USTA's unwillingness to adopt the NPRM's "market-based" proposal hardly means that USTA has chosen to stay with its own earlier recommendation. USTA's market-based plan as proposed in its December 11, 1995, comments provided that:

> "Streamlined regulation should be available when the relevant market is competitive as determined by supply responsiveness, demand responsiveness and, in certain cases, the presence of a certified, facilities based local exchange competitor. These principles are virtually identical to those used by the Commission to streamline regulation of AT&T and, ultimately, to declare AT&T to be nondominant." (USTA Comments of December 11, 1995, at 38; emphasis supplied; footnote omitted).

But USTA's present plan totally abandons the "presence of a certified, facilities based local exchange competitor" required for the streamlining of AT&T. Attachment 8 to USTA's current comments plainly shows that streamlining occurs for many access services upon the mere execution of an interconnection agreement regardless of whether there is any actual competition in place (USTA Attachment 8).

Thus, USTA and BA-NYNEX's eagerness to abandon their original proposed market-based plans -- plans which they portrayed as paralleling the Commission's streamlining of the regulation of AT&T -- fully demonstrates the economic

irrationality of the Access Charge Reform NPRM's so-called market-based proposal. And even if USTA or NYNEX could provide any account for so radical a shift in their positions (which they cannot), neither NYNEX nor USTA are entitled here to rely on the existence of interconnection agreements with access competitors making available unbundled network elements such as OSS, and prices set at TELRIC levels, as a basis for their new proposals because both USTA and NYNEX are currently fighting to stop CLECs from gaining access to unbundled elements at TELRIC prices, or from gaining access to OSS at all![3]

There is no question that NYNEX and USTA's "new" plans rely on the availability of network elements such as OSS, and on the availability of TELRIC prices. USTA's affiants Schmalensee and Taylor expressly endorse USTA's plan based on the "fact" that: "Competitors will be able to electronically bond with the ILEC's preordering, ordering, provisioning, maintenance and repair and billing systems" (Schmalensee and Taylor Affidavit at

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[3] USTA joined the rest of the ILEC industry in fighting to deny CLECs any access to unbundled network elements such as OSS in the Eighth Circuit (see USTA Brief at n. 7, joining the Large LEC Brief, and the oral argument of Maureen Mahoney (transcript at 42, line 11: "I'd like to emphasize at the outset that we do join in the arguments of the large LECs and midsize LECs that are set forth in the briefs here ..."; Large LEC Brief at 50: "OSS systems are not facilities or equipment used in the routing or transmission of telephone calls any more than repair trucks are ... Requiring an incumbent to make these systems available to competitors has nothing to do with unbundling the pieces of the physical network that are actually used to deliver calls;" and at 32: "Each of the individual pricing formulas developed by the FCC -- for interconnection and unbundled elements, for services, and for the transport and termination of traffic -- violates the plain terms of the 1996 Act").

10). Despite identifying these items as critical to effective competition, nowhere does USTA assert that CLECs are actually obtaining such support currently from the ILECs.

USTA and the ILECs have every legal right to fight on endlessly in an effort to stop CLECs from gaining access to the network elements and the TELRIC pricing that are needed for effective competition. What they cannot do, of course, is to seek deregulation here of their access charges predicated on the lifting of certain entry barriers identified by their own affiants at the very time USTA and NYNEX are fighting to maintain those barriers.

B. The ILECs' Market-Based Approaches Are Grounded on the False Assumption that Access Competition Is Geographically Homogenous.

The ILECs' efforts to defend their own market-based approaches, as well as the approach of the Access Charge Reform NPRM, employ the simplistic assumption that access competition will emerge in a uniform fashion on a statewide basis. But -- aside from contradicting the assumption of heterogenous competition reflected in NYNEX and USTA's earlier plans -- this assumption is flatly contradicted in the current record. For example, USTA asserts that: "high capacity special access service are generally concentrated in high volume, dense markets" (USTA at 43). True, competition exists to some extent in various high volume, dense markets. But the ILECs themselves acknowledge that outside the "high volume, dense markets" referenced by USTA, the

costs of special services can be five times as much as in dense areas (Access Charge Reform NPRM at ¶ 107, citing SWB's Comments in CC Docket No. 91-213, filed February 1, 1993, at 39-45). The fact that USTA's demonstrations of "competition" are all anecdotal, and based on narrow geographic areas, plainly shows that its request for statewide deregulation is unwarranted.

C. Actual Market-Based Competition (as Opposed to the NPRM's Version) Applies with Equal Effect to Terminating and Originating Access.

A well-founded market-based approach (i.e., an approach more resembling USTA and NYNEX's proposals of fourteen months ago than their current recommendations) can and will work for terminating access as well as for originating access. ALTS demonstrated in the affidavit of Brenner and Woodbury attached to its initial comments that the "multi-bottleneck" hypothesis being pushed by some IXCs -- the claim that competition cannot possibly work for terminating access even where competitive access facilities are available -- is patently oxymoronic. Sadly, IXCs which should know better are now parroting this nonsense (see, e.g., CompTel at 14-16, 18; MCI at 35). For example, the affidavit of Baumol, Ordover, and Willig attached to AT&T's initial comments asserts that (at ¶ 37):

> "In assessing the extent to which competition can constrain exchange access rates, the Commission should also take into account the fact that a customer's choice of an access provider has an element of 'externality' associated with it. This is so because a customer originating a call pays for terminating access, yet cannot directly affect the choice of the terminating carrier at the called party's end. This is so because a customer originating a call pays for

> terminating access, yet cannot directly affect the choice of the terminating carrier at the called party's end. As a result, the originating customer has no direct way of inducing the receiving customer to select an efficiently inexpensive terminating carrier." (Emphasis supplied.)

But it is unimportant whether an originating customer lacks a "direct way of inducing" the selection of an inexpensive terminating access provider (as these distinguished economists fully understand) because the originating customer has a indirect sledgehammer available. Current competitive access customers are almost all businesses. Assume a "high-cost terminating CLEC" exists. If IXCs respond to such a high-cost terminating CLEC by surcharging calls to that carrier, or else by refusing to place such calls in the first place (and neither AT&T nor any other IXC disclaims its ability or willingness to pursue such tactics), the business end user served by such a high cost terminating CLEC would start losing business calls and business customers, and very quickly would become very unhappy with its competitive access provider.

The notion of AT&T as a helpless giant in the thrall of greedy high cost terminating CLECs would be amusing if this myth were not being trumpeted in an important NPRM. AT&T is well familiar with how to manage this sort of issue. When several states attempted to impose taxes on interstate calls in the belief that state-specific taxes would flow back and be averaged into AT&T's general expenses, and thus its general rates, AT&T quickly disciplined these sovereign entities by imposing off-

setting surcharges on all calls subject to such taxes.[4] AT&T and the entire IXC industry have recourse to similar effective tactics in the highly unlikely event that any CLEC were foolish enough to attempt to charge unreasonable terminating access charges.

D. There Is No Reason Why Facilities-Based Competition Will Necessarily Follow Resale-Based Competition.

AT&T contends that facilities-based competition will not be adequate to discipline ILEC access rates, arguing that: " ... like [unbundled network element]-based local competition, facilities-based local competition is in most markets virtually nonexistent today. And it is widely accepted that significant facilities-based competition is more likely to *follow*, than precede, resale and UNE-based entry. That is because facilities-based competition entails significantly more risk than other forms of entry, and that risk can be reduced only by first establishing customer relationships through less capital-intensive strategies" (AT&T comments at 46-47).

But there is no reason why facilities-based competition must necessarily follow resale competition. AT&T of all folks should remember that it was private microwave systems and MCI's facilities-based entry into the Chicago-St. Louis corridor that kicked off competition in the long-distance industry. Effective

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[4] See FCC Factsheet, "Taxes and Other Charges on Your Telephone Bill," March 1996.

long-distance resale *followed* facilities-based competition in long-distance, not the other way around (see Breyer, Regulation and Its Reform, 301-309 (1982)). While neither facilities-based or resale-based competition may be progressing as fast as the new entrants might prefer, there would currently appear to more facilities-based than resale-based local competition, not less. AT&T may quickly discover the reason.

The answer, of course, is that the delaying tactics of the ILECs have a even greater impact on resale-based competition than on facilities-based competition (see, e.g., CompTel's discussion of the unavailability of "network platform" at 8-9). ILEC intransigence is not quite so critical a problem for facilities-based providers, because they do not rely on an ILEC to provide them with everything, and thus have less vulnerability.

E. The NPRM's Proposed "Market-Based" Approach Suffers from Numerous Specific Errors.

Several parties identified specific aspects of the Access Charge Reform NPRM's market based approach deserving of mention.

"Excessive" ILEC Access Rates Do Not Unnecessarily Encourage the ILECs to Resist Competition - The IXCs contend that any market approach is deficient compared to the prescriptive approach because excessive ILEC access charges encourage the ILEC to resist access competition in any fashion possible (MCI comments at 37). The IXCs are correct as a general proposition that access rates above cost do add incrementally to the ILECs'

incentive to frustrate Section 251-252 process. However, given the immense profitability of the local markets that are also threatened by access entry, a powerful incentive for ILEC resistance already exists and could not be cured even if access charges were reduced to zero.

The Proposed Phase I Relief Is Unjustified and Unnecessary - Several commenting parties have noted serious defects in the particulars of the Phase I relief set out in the Access Charge Reform NPRM "market-based" plan. MCI correctly notes, for example, that it confers premature pricing flexibility (MCI at 45): "Premature pricing flexibility would permit the incumbent LEC to reduce access charges selectively in order to deter new entrants, while continuing to charge above-cost access charges in areas and for services where there are no competitive forces."

Furthermore, Phase I flexibility would likely produce little movement toward efficient access pricing given the existing ILEC access pricing flexibility remains unexhausted (MCI comments at 48-52). Accordingly, the sole effect of Phase I's pricing flexibility would be to foster anti-competitive ILEC pricing (MCI comments at 56).

There Is No Current Justification for the Deaveraging of Switched Access, or for Volume and Term Discounts - MCI correctly remarks that deaveraging of ILEC switched access rates makes little sense in the absence of interconnection agreements providing the constituent elements of switched access at

deaveraged rates (MCI comments at 57). While facilities-based competitive switched access provides some competition, it is not nearly ubiquitous to justify ILEC switched access deaveraging in the total absence of deaveraged switched access unbundled network elements.

On a similar point, both Sprint and MCI observe correctly that no cost evidence exists to justify volume and term discounts for access (Sprint comments at 44-45; MCI comments at 58). In the absence of established cost distinctions, the Commission's discretion to circumscribe the anti-discrimination provisions of the 1934 Act have limits even if this were good policy, which it is not.

Changes that Must Be Made to Phase I If It Is Adopted - While Phase I is entirely unnecessary for all the reasons set forth above, there are changes which manifestly must be made if it were to be adopted. At the very least, ICB and contract pricing should not be made part of Phase I (Sprint comments at 44).

Furthermore, a new fresh look must be required in Phase I if the NPRM's market-based approach used (MCI Comments at 59).

Finally, even if Phase I adopted, Phase II should be postponed indefinitely pending review of actual experience under Phase I (Sprint comments at 47).

II. NO FOUNDATION EXISTS FOR THE PRESCRIPTIVE APPROACH ADVOCATED BY THE IXCs.

ALTS demonstrated in its initial comments that the Access Charge Reform NPRM's "prescriptive" approach was nothing more than old-fashioned regulation dressed up in a new set of clothes. ALTS pointed out that it was precisely the inadequacies of regulation in general -- and tactics like the "prescriptive" approach in particular -- that had led Congress to rely on market forces in the Telecommunications Act of 1996. Given this fundamental reliance on competition, and the incompleteness of many factors needed to inject effective competition into access markets (such as the currently incomplete Expanded Interconnection proceeding), it makes little sense for the Commission now to be switching policy horses mid-stream. Indeed, as the Illinois Commerce Commission eloquently states (ICC Comments at 24):

> "The prescriptive approach would launch regulation on a slippery slope of administratively burdensome micromanagement. The FCC contemplates that each State commission may be required to both evaluate TSLRIC studies and perform traditional embedded-cost rate cases for each price cap incumbent LEC. The national resources required for such an undertaking would be staggering. Further, it is not clear that, even with all that effort, regulators would arrive at better prices than would be obtained in a market-based approach."

As shown below, none of the initial comments succeed in showing why the Commission should abandon sound competitive approaches to deregulation (and these approaches do not include the NPRM's "market-based" proposal) in favor of a return to

regulation.

A. The Fact that "A Minute-Is-A-Minute" Does Not Mandate a Prescriptive Approach.

Several parties remark that the similarity of transport and termination to terminating access somehow mandates a prescriptive approach (see, e.g., AT&T at 12). ALTS does not deny that transport and termination resembles terminating access, but this by itself does not require a prescriptive approach. ILEC access rates will indeed move closer to transport and termination levels with the emergence of competition, so that minutes of ILEC terminating access will eventually move to the level of transport and termination for non-long distance traffic. Nowhere do the IXCs contend that disparities between transport and termination and terminating can be eroded immediately, or even over the near term by any form of arbitrage.

If there were any basis to the theory that the resemblance between transport and termination and terminating access should somehow drive Part 69 pricing, CompTel's claim that the cost of transport and termination is zero (CompTel at 19) would bear closer examination. The Commission has already rejected this particular claim in its Local Competition Order by declining to mandate "bill and keep" based on its belief that such costs do exist.

B. Reductions in ILEC Access Charges Would Have No Appreciable Effect on the ILECs' Ability to Finance Anti-Competitive Initiatives.

Contrary to the assertion of several parties (see, e.g., AT&T at 13-17; MCI at 13, 19), lowering ILEC cash flows through reductions in ILEC access charges will have no meaningful affect on the ILECs' ability to fund "bad deeds."[5] The "war chest" much feared by AT&T (at 17) already exists because the ILECs have ample ability to raise whatever funds they are likely to need, based on their AAA debt ratings and their unquestioned ability to finance huge acquisitions. However regrettable it may be that monopolists are well positioned to finance anti-competitive activities, reductions in ILEC access rates would not have any appreciable effect on that ability.

C. There Is No Logical Reason to Reduce RBOC Access Charges Upon Their Entry into In-Region Long Distance.

The IXCs insist in their initial comments that RBOCs must be made to flash cut their access charges to TELRIC levels upon their entry into in-region long distance service (see MCI comments at 17). But the level of Part 69 access charges has no logical connection to RBOC entry into in-region long distance once the IXCs have full access to forward-looking unbundled elements for origination and termination of long distance traffic (see Sprint at 33: "Local entry through the purchase of unbundled network elements and facilities both will put economic pressure

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[5] Total Class A Incumbent LEC Revenues are $90.9B per year as of year end 1995 (Access Charge Reform NPRM at Table 1.

on ILECs, particularly as long as non-cost based access charges continue to exist"; see also Non-Accounting Safeguards of Section 271 and 272, ¶ 258).

Once the IXCs can obtain unbundled elements at forward-looking costs for the purpose of originating and terminating long-distance traffic, they cannot be disadvantaged in the long-distance markets vis-a-vis the RBOCs (see AT&T at 16: " ... [unbundled network element]-based competitors can avoid excess access charges").

Indeed, the checklist compliance required by Section 271 will help accelerate effective access competition in states where the RBOCs win approval, though it will not be adequate to insure such competition by itself. It would be totally counter-productive to undercut access competition by flash cut reductions in ILEC access rates in the very states where access competition would have the most promise. It would be particularly egregious to make such a reduction out of a misplaced fear about the effect of such rates on long-distance competition. Robust, multiple facilities-based long-distance networks are already in place, and these facilities could not be torn out of the ground by RBOC entry even in the remote event an RBOC were to succeed -- quite irrationally -- in driving each of them into bankruptcy. They would continue to be operated by trustees in bankruptcy, and thus continue to provide long-distance competition. Elsewhere in the Access Charge Reform NPRM, the Commission uses precisely this